

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 98-0215P ST

Sales Tax

For Tax Period: October 31, 1997

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ISSUE

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer files monthly by electronic funds transfer (EFT) and uses a sales and use tax software, Vertex to calculate its sales and use tax. The Vertex program automatically generates a return as well as the related payment vouchers. For the sales tax period ended October 31, 1997, the return generated by Vertex reflected the correct one percent (1%) sales discount allowed. However, the related payment voucher generated by Vertex reflected a two percent discount on which the taxpayer called in its "EFT." This in effect caused the EFT to show an underpayment of tax due.

I. Tax Administration - Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in remitting its tax due.

The taxpayer remitted tax due by EFT as shown on the payment voucher. The software program correctly generated the return but contained an error in the payment voucher causing a miscalculation. Taxpayer states the miscalculation was an abhorration and was committed outside of its control. It has contacted Vertex to correct the problem.

Taxpayer paid \$369,698.05 by EFT. The department billed the taxpayer the difference of tax reported and tax remitted and disallowed the collection allowance.

The department finds the taxpayer used reasonable care and prudence in carrying out its duty to remit sales tax timely. The miscalculation was caused by computer error and the taxpayer has taken steps to correct the problem therefore, the penalty is waived.

FINDING

Taxpayer's protest is sustained.